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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/761,031	01/20/2004	Thomas J. Wheeler	0275S-468COA	3122
27572 7590 05/15/2007 HARNESSE, DICKEY & PIERCE, P.L.C. P.O. BOX 828 BLOOMFIELD HILLS, MI 48303			EXAMINER HAMILTON, ISAAC N	
			ART UNIT 3724	PAPER NUMBER
			MAIL DATE 05/15/2007	DELIVERY MODE PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/761,031

Applicant(s)

WHEELER ET AL.

Examiner

Isaac N. Hamilton

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 02/28/07.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-23 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☐ Claim(s) 1-3, 9-12 and 16-23 is/are rejected.
- 7) ☒ Claim(s) 4-8, 13-15 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Claim Objections

1. Claims 20 is objected to because of the following informalities: “edge” in line 8, appears to have a light line through it representing that it should be deleted, however, “said interface edge” is set forth in line 12. For purposes of examination, “edge” in line 8 will be treated as though it is not deleted, however, further copies of the claims should reflect “edge” as clearly not being deleted. Appropriate correction is required.

Claim Rejections - 35 USC § 102

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

3. Claim 20 is rejected under 35 U.S.C. 102(b) as being anticipated by Schickerling (6,112,420). Schickerling discloses saw blade 12; housing containing a motor is inherent in reciprocating saws; shank portion 24; cutting portion 22; carrier 10; first portion 40, 42, 44; second portion 45; sidewalls 40, 42; base portion 44; clamp 80; interface edge is the upper surface of the blade 12; cam member 62 is spaced from clamp 80 and functions independently of clamp 80 because cam member 62 and clamp 80 are not in direct contact; channel juxtaposed elements 44 and 58. It is to be noted that cam member 58 is fixed between side walls 40, 42 via elements 64 and 66, which do not allow the cam member 58 to move forward or backward. Additionally, the cam member is “fixed” between side walls 40, 42 as shown in figure 7, although not permanently fixed.

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4. Claims 21-23 are rejected under 35 U.S.C. 102(b) as being anticipated by Armstrong (5,535,520). Armstrong discloses housing 12 containing a motor as recited in column 2, line 61; releasably attached base portion 36; first pair of lateral rails 56, 58; second pair of lateral walls 52, 54; stop 60; and latch 46; drive mechanism 20; carrier 22; saw blade 24. First pair of lateral rails 56, 58 are considered to be integrally formed on and extending from the housing because elements 40, 42 and 44 connect the first pair of lateral rails to the housing 12.

Claim Rejections - 35 USC § 103

5. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

6. Claims 1, 2, 3, 11 and 12 are rejected under 35 U.S.C. 103(a) as being unpatentable over Lai (5,479,709) in view of Schickerling. Lai discloses housing in figures 3 and 4 surrounding all of the internal elements in the saw; motor 1; carrier 6, 10; first portion adjacent element 10; planar base 10, 6; side walls on either side of element 10; channel juxtaposed blade 120 in figure 1; cutting edge has teeth as shown in figure 2; mounting edge is the edge opposite to the edge with cutting teeth; side surface is the surface of blade 120 that is visible in figure 2; second plane is juxtaposed the walls of element 10; output shaft adjacent element 2 and motor 1; second portion adjacent slot/opening 61; plane of planar base is in a line of cutting with the saw blade as seen in figure 1, and the plane of the line of cut is parallel to the plane of the planar base; rotatable element/drive mechanism 4; support 31; follower 5; reciprocal linear path is along slot

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61; lateral walls are adjacent elements 63 and 62, and juxtaposed between channels 63 and 62 and element 61; first channel 63; second channel 62; fan 7; vent 72.

Lai does not disclose a carrier with side walls extending from and continuous with the base. However, Schickerling teaches carrier 40, 42, 44 with side walls 40, 42 extending from and continuous with the base 44. It would have been obvious to provide a carrier with side walls extending from and continuous with the base in Lai as taught by Schickerling in order to provide a self-locking, quick-release blade clamp assembly that will accommodate blades of varying thickness.

The combination of Lai and Schickerling disclose the claimed invention except for the carrier being a monolithic one piece carrier. It would have been obvious to one of ordinary skill in the art to provide a monolithic one piece carrier by combining the carrier of Schickerling with the first portion of Lai for the purpose of reducing assembly steps for the reciprocating saw. It has been held that where the general conditions of a claim are disclosed in the prior art, forming in one piece an article which has formerly been formed in two pieces and put together involves only routine skill in the art. *Howard v. Detroit Stove Works*, 150 U.S. 164 (1893). Device 10 of Lai

7. Claims 9, 10, 18 and 19 are rejected under 35 U.S.C. 103(a) as being unpatentable over the combination of Lai and Schickerling in view of Armstrong (5,535,520). The combination discloses everything as noted above, but does not disclose a releasably attached base portion with a first pair of lateral rails, a second pair of lateral walls, a stop and does not disclose a latch. Armstrong teaches a releasably attached base portion 36; first pair of lateral rails 52, 54; second pair of lateral walls 56, 58; stop 60; and latch 46. It would have been obvious to provide a

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releasably attached base portion with a first pair of lateral rails, second pair of lateral walls, a stop and a latch in the combination as taught by Armstrong in order to provide a base portion that releases quickly from the saw without the use of a tool. Disengaged position shown in figure 5, and engaged position shown in figures 2 and 3.

8. Regarding claim 17, the combination of Lai and Schickerling discloses the claimed invention except for multiple vents. It would have been obvious to one having ordinary skill in the art at the time the invention was made to provide multiple vents, since it has been held that mere duplication of the essential working parts of a device involves only routine skill in the art. *St Regis Paper Co. v. Bemis Co.*, 193 USPQ 8. It would have been obvious to provide multiple vents in the combination of Lai and Schickerling in order to increase the areas in the saw that have saw dust blown away from them.

Allowable Subject Matter

9. Claims 4-8 and 13-15 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Response to Arguments

10. Applicant's arguments with respect to the claims have been considered but are moot in view of the new ground(s) of rejection.

Conclusion

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

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A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Isaac Hamilton whose telephone number is 571-272-4509. The examiner can normally be reached on Monday through Friday between 8am and 5pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Boyer D. Ashley can be reached on 571-272-4502. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

IH
May 9, 2007



Timothy V. Eley
Primary Examiner